

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SUSAN A. SCOTT,

Plaintiff,

vs.

**8:19-CV-488
(TJM/CFH)**

MULLOLLY, JEFFREY, ROONEY, & FLYNN, LLP,

Defendant.

**Thomas J. McAvoy,
Sr. U.S. District Judge**

DECISION & ORDER

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Christian F. Hummell for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that the Defendant placed a lien on her bank account. The lien stemmed from a 2012 default judgment of which Plaintiff was unaware. The lien froze Plaintiff's bank account and all of her assets, including her student loans, and caused her considerable hardship, including an inability to pay for her Master's Degree program.

Magistrate Judge Hummell's Report-Recommendation, dkt. # 4, issued on May 1, 2019, provided Plaintiff's Complaint, filed *pro se* along with a motion to proceed *in forma pauperis*, an initial review pursuant to 28 U.S.C. §§ 1915(e) and 1915A. Magistrate Judge Hummell recommends that the Court dismiss Plaintiff's Complaint with prejudice to filing

an Amended Complaint but without prejudice to filing an action in state court. Magistrate Hummell finds that Plaintiff cannot allege a Section 1983 claim because Defendant is not a state actor. Plaintiff alleges purely private conduct and Section 1983 cannot provide the Court jurisdiction in this matter.

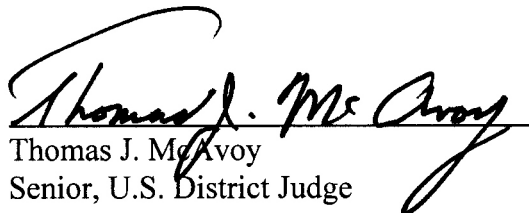
Plaintiff did not object to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Hummell, dkt. # 4, is hereby **ACCEPTED** and **ADOPTED**. Plaintiff's Complaint is hereby **DISMISSED WITH PREJUDICE AND WITHOUT OPPORTUNITY TO AMEND**. The Court's dismissal is without prejudice to Plaintiff filing an appropriate action in state court. The Clerk of Court is directed to **CLOSE** the case.

IT IS SO ORDERED.

Dated: August 19, 2019


Thomas J. McAvoy
Senior, U.S. District Judge